



6712-01

FEDERAL COMMUNICATIONS COMMISSION

[DA 14-1230]

Notice of Suspension and Commencement of Proposed Debarment Proceedings; Schools and Libraries
Universal Service Support Mechanism

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Enforcement Bureau (the “Bureau”) gives notice of Marvin M. Freeman’s suspension from the schools and libraries universal service support mechanism (or “E-Rate Program”). Additionally, the Bureau gives notice that debarment proceedings are commencing against him. Mr. Freeman, or any person who has an existing contract with or intends to contract with him to provide or receive services in matters arising out of activities associated with or related to the schools and libraries support, may respond by filing an opposition request, supported by documentation to Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554.

DATES: Opposition requests must be received by 30 days from the receipt of the suspension letter or **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, whichever comes first. The Bureau will decide any opposition request for reversal or modification of suspension or debarment within 90 days of its receipt of such requests.

ADDRESSES: Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joy Ragsdale, Federal Communications Commission, Enforcement Bureau, Investigations and Hearings Division, Room 4-C330, 445 12th Street, SW., Washington, DC 20554. Joy Ragsdale may be contacted by phone at (202) 418-1697 or e-mail at Joy.Ragsdale@fcc.gov. If Ms. Ragsdale is unavailable, you may contact Ms. Theresa Cavanaugh, Chief, Investigations and Hearings Division, by telephone at (202) 418-1420 and by e-mail at Terry.Cavanaugh@fcc.gov.

SUPPLEMENTARY INFORMATION: The Bureau has suspension and debarment authority pursuant to 47 CFR 54.8 and 47 CFR 0.111(a)(14). Suspension will help to ensure that the party to be suspended cannot continue to benefit from the schools and libraries mechanism pending resolution of the debarment process. Attached is the suspension letter, DA 14-1230, which was mailed to Mr. Freeman and released on August 26, 2014. The complete text of the Notice of suspension and initiation of debarment proceedings is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portal II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, In addition, the complete text is available on the FCC's Web site at <http://www.fcc.gov>. The text may also be purchased from the Commission's duplicating inspection and copying during regular business hours at the contractor, Best Copy and Printing, Inc., Portal II, 445 12th Street, SW., Room CY-B420, Washington, DC 20554, telephone (202) 488-5300 or (800) 378-3160, facsimile (202) 488-5563, or via e-mail <http://www.bcpweb.com>.

Federal Communications Commission.

Theresa Z. Cavanaugh,
Chief, Investigations and Hearings Division, Enforcement Bureau.

August 26, 2014

DA 14-1230

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. Marvin Mitch Freeman

1408 Northhill Street

Selma, CA 93662

Re: Notice of Suspension and Initiation of Debarment Proceeding

File No. EB-IHD-14-00015659

Dear Mr. Freeman:

The Federal Communications Commission (Commission) has received notice of your conviction of conspiracy to commit mail fraud in violation of 18 U.S.C 371, a conviction that arose out of activities associated with the federal schools and libraries universal service support mechanism (E-Rate program).¹ Consequently, pursuant to 47 CFR 54.8, this letter constitutes official notice of your suspension from the E-Rate program.² In addition, the Enforcement Bureau (Bureau) hereby notifies you that the Bureau will commence debarment proceedings against you.³

¹ Any further reference in this letter to “your conviction” refers to your guilty plea and subsequent sentencing for conspiring to defraud the United States in United States v. Freeman, Criminal Docket No. 1:06-CR-00013-LJO-2, Plea Agreement at 3 (E.D. Cal. filed Oct. 22, 2010) (Plea Agreement).

² 47 CFR 54.8.

³ Id. 0.111 (delegating to the Enforcement Bureau authority to resolve universal service suspension and debarment proceedings). The Commission adopted debarment rules for the E-Rate program in 2003. See Schools and Libraries Universal Service Support Mechanism, Second Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 9202 (2003) (Second Report and Order) (adopting § 54.521 to suspend and debar parties from the E-Rate program). In 2007 the Commission extended the debarment rules to apply to all federal universal service support mechanisms. Comprehensive Review of the Universal Service Fund Management, Administration, and Oversight; Federal-State Joint Board on Universal Service; Schools and Libraries Universal Service Support Mechanism; Rural Health Care Support Mechanism; Lifeline and Link Up; Changes to the Board of Directors for the National Exchange Carrier Association, Inc., Report and Order, 22 FCC Rcd 16372, App. C at 16410–12 (2007) (Program

I. Notice of Suspension

The Commission has established procedures to prevent persons who have “defrauded the government or engaged in similar acts through activities associated with or related to the [E-Rate program]” from receiving the benefits associated with that program.⁴ The statutory provisions and Commission rules relating to the E-Rate program are designed to ensure that all E-Rate funds are used for their intended purpose.⁵ Sections 54.503 and 54.511 of the Commission’s rules require that solicitations for E-Rate services be based on a fair and open competitive bidding process that is free from conflicts of interest.⁶

On November 1, 2010, you pled guilty to conspiring with others to defraud the E-Rate program. During the course of that conspiracy, you used your silk screening business, Twisted Head Design, as a shell company to circumvent the E-Rate program’s competitive bidding rules.⁷ Specifically, you conspired with Gregory Paul Styles, the Management Information Systems Director for the Chowchilla Elementary School District (CESD), to use Twisted Head Design to bid on CESD’s E-Rate contracts.⁸

Management Order) (renumbering §54.521 of the universal service debarment rules as §54.8 and amending paragraphs (a)(1), (a)(5), (c), (d), (e)(2)(i), (e)(3), (e)(4), and (g)).

⁴ Second Report and Order, 118 FCC Rcd at 9225, para. 66; Program Management Order, 22 FCC Rcd at 16387, para. 32. The Commission’s debarment rules define a “person” as “[a]ny individual, group of individuals, corporation, partnership, association, unit of government or legal entity, however organized.” 47 CFR 54.8(a)(6).

⁵ NEC-Business Network Solutions, Inc., Notice of Debarment and Order Denying Waiver Petition, 21 FCC Rcd 7491, 7493, para. 7 (2006).

⁶ 47 CFR 54.503, 54.511(a); see Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 9078–80, paras. 480–81 (1997) (subsequent history omitted) (finding that without competitive bidding requirements, the applicant may not receive the most cost-effective services); Lazo Technologies, Inc., Order on Reconsideration, 26 FCC Rcd 16661, 16664, para. 7 (2011) (explaining that a service provider may not be involved in the competitive bidding process other than as a bidder) (Lazo Recon. Order); see also USAC’s website description of an Open and Fair Competitive Bidding Process, Step 2 available at <http://www.universalservice.org/sl/applicants/step02/competitive-bidding.aspx> (last visited June 9, 2014).

⁷ Plea Agreement at 10–12; United States v. Styles, Criminal Docket No. 1:06-CR-00013-001, Indictment at 2 (E.D. Cal. filed Jan. 19, 2006) (Indictment); see also UNITED STATES ATTORNEY’S OFFICE, EASTERN DISTRICT OF CALIFORNIA, Press Releases, Two Plead Guilty in Scheme to Defraud the Chowchilla Elementary School District, Nov. 1, 2010, available at <http://www.fbi.gov/sacramento/press-releases/2010/sc110110.html>.

⁸ Plea Agreement at 11; see Indictment at 6. The Bureau is also serving a notice of suspension and initiation of debarment proceedings on Mr. Styles. See Letter from Theresa Z. Cavanaugh, Chief,

Mr. Styles then selected Twisted Head Design's bids knowing that the company was unqualified to perform E-Rate work, performed the work himself or through his subcontractors, and billed USAC for the work.⁹ As a result of your fraudulent scheme, USAC disbursed \$787,950 to you, a substantial portion of which you forwarded to Mr. Styles, who deposited it in his bank account.¹⁰

On March 17, 2011, the United States District Court for the Eastern District of California sentenced you to 36 months of probation with conditions, including 200 hours of community service.¹¹ The court also ordered you to pay \$40,000 in restitution to CESD and a \$100 special assessment.¹²

Pursuant to §54.8(b) of the Commission's rules,¹³ upon your conviction for theft of E-Rate funds, the Bureau is required to suspend you from participating in any activities associated with or related to the E-Rate program, including receiving funds or discounted services through the E-Rate program, or consulting with, assisting, or advising applicants or service providers regarding the E-Rate program.¹⁴ Your suspension becomes effective upon either your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁵

In accordance with the Commission's suspension and debarment rules, you may contest this suspension or the scope of this suspension by filing arguments, with any relevant documents, within thirty (30) calendar days of your receipt of this letter or its publication in the Federal Register, whichever comes first.¹⁶ Such requests, however, will not ordinarily be granted.¹⁷ The Bureau may reverse or limit the

Investigations and Hearings Division, FCC Enforcement Bureau, to Gregory Paul Styles, Notice of Suspension and Initiation of Debarment Proceedings, DA 14-1229 (Enf. Bur. Aug. 26, 2014).

⁹ Plea Agreement at 11; see Indictment at 6.

¹⁰ Plea Agreement at 12; see Indictment at 9, 12.

¹¹ United States v. Freeman, Criminal Docket No. 1:06-CR-00013-002, Judgment 1–4 (E.D. Cal. filed Mar. 17, 2011) (Judgment).

¹² Judgment at 3, 5. The court ordered Messrs. Styles and Freeman to pay this restitution joint and severally. Id. at 5.

¹³ 47 CFR 54.8(a)(4); see Second Report and Order, 18 FCC Rcd at 9225–27, paras. 67–74.

¹⁴ 47 CFR 54.8(a)(1), (d).

¹⁵ Second Report and Order, 18 FCC Rcd at 9226, para. 69; 47 CFR 54.8(e)(1).

¹⁶ 47 CFR 54.8(e)(4).

¹⁷ Id.

scope of a suspension only upon a finding of extraordinary circumstances.¹⁸ The Bureau will decide any request to reverse or modify a suspension within ninety (90) calendar days of its receipt of such request.¹⁹

II. Initiation of Debarment Proceedings

In addition to requiring your immediate suspension from the E-Rate program, your conviction is cause for debarment as defined in §54.8(c) of the Commission's rules.²⁰ Therefore, pursuant to §54.8(b) of the Commission's rules, your conviction requires the Bureau to commence debarment proceedings against you.²¹

As with the suspension process, you may contest the proposed debarment or the scope of the proposed debarment by filing arguments and any relevant documentation within thirty (30) calendar days of receipt of this letter or its publication in the Federal Register, whichever comes first.²² The Bureau, in the absence of extraordinary circumstances, will notify you of its decision to debar within ninety (90) calendar days of receiving any information you may have filed.²³ If the Bureau decides to debar you, its decision will become effective upon either your receipt of a debarment notice or publication of the decision in the Federal Register, whichever comes first.²⁴

If and when your debarment becomes effective, you will be prohibited from participating in activities associated with or related to the E-Rate program for three years from the date of debarment.²⁵

¹⁸ 47 CFR 54.8(f).

¹⁹ Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5), (f).

²⁰ "Causes for suspension and debarment are conviction of or civil judgment for attempt or commission of criminal fraud, theft, embezzlement, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice and other fraud or criminal offense arising out of activities associated with or related to the schools and libraries support mechanism, the high-cost support mechanism, the rural healthcare support mechanism, and the low-income support mechanism." 47 CFR 54.8(c). Associated activities "include the receipt of funds or discounted services through [the federal universal service] support mechanisms, or consulting with, assisting, or advising applicants or service providers regarding [the federal universal service] support mechanisms." Id. 54.8(a)(1).

²¹ Id. 54.8(b).

²² Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(3).

²³ Second Report and Order, 18 FCC Rcd at 9226, para. 70; 47 CFR 54.8(e)(5).

²⁴ 47 CFR 54.8(e)(5). The Commission may reverse a debarment, or may limit the scope or period of debarment, upon a finding of extraordinary circumstances, following the filing of a petition by you or an interested party or upon motion by the Commission. Id. 54.8(f).

²⁵ Second Report and Order, 18 FCC Rcd at 9225, para. 67; 47 CFR 54.8(d) and, (g).

The Bureau may set a longer debarment period or extend an existing debarment period if necessary to protect the public interest.²⁶

Please direct any response, if sent by messenger or hand delivery, to Marlene H. Dortch, Secretary, Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554 and to the attention of Joy M. Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 with a copy to Theresa Z. Cavanaugh, Division Chief, Investigations and Hearings Division, Enforcement Bureau, Room 4-C330, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554. All messenger or hand delivery filings must be submitted without envelopes.²⁷ If sent by commercial overnight mail (other than U.S. Postal Service (USPS) Express Mail and Priority Mail), the response must be sent to the Federal Communications Commission, 9300 East Hampton Drive, Capitol Heights, Maryland 20743. If sent by USPS First Class, Express Mail, or Priority Mail, the response should be addressed to Joy Ragsdale, Attorney Advisor, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554, with a copy to Theresa Z. Cavanaugh, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 4-C330, Washington, D.C. 20554. You shall also transmit a copy of your response via e-mail to Joy M. Ragsdale, Joy.Ragsdale@fcc.gov, and to Theresa Z. Cavanaugh, Terry.Cavanaugh@fcc.gov.

²⁶ 47 CFR 54.8(g).

²⁷ See FCC Public Notice, DA 09-2529 for further filing instructions (rel. Dec. 3, 2009).

If you have any questions, please contact Ms. Ragsdale via U.S. postal mail, e-mail, or by telephone at (202) 418-1697. You may contact me at (202) 418-1553 or at the e-mail address noted above if Ms. Ragsdale is unavailable.

Sincerely yours,

Theresa Z. Cavanaugh.
Chief.
Investigations and Hearings Division.
Enforcement Bureau.

cc: Johnnay Schrieber, Universal Service Administrative Company (via e-mail)

Rashann Duvall, Universal Service Administrative Company (via e-mail)

Mark J. McKeon, United States Attorney's Office, Eastern District of California (via e-mail)

[FR Doc. 2014-21831 Filed 09/11/2014 at 8:45 am; Publication Date: 09/12/2014]